S.B.Cr.Misc. II Bail App. No. 4289/2007
(Bal Ram Vs. State of Rajasthan)

Date of order : 11/09/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. B.S.Rathore for the petitioner.

Mr V.R.Mehta, Public Prosecutor.

Mr. Mridul Jain for the complainant.

Heard learned counsel for the petitioner and the Public Prosecutor for the State assisted by counsel for the complainant. Perused the order impugned.

While rejecting the earlier bail application vide order dated 01.12.2006 this Court passed the following order:-

> "I have heard learned counsel for the petitioner as well as learned public prosecutor for the State and counsel for the complainant and carefully gone through the impugned order.
>
> After hearing learned counsel for the parties and taking into consideration the submissions made by learned counsel for the parties, I am not inclined to grant bail to the petitioner at this stage. However, I deem it proper to pass the following directions:-
>
> (i) The learned trial court shall expedite the trial and first of all shall record the statement of Kumari Manju;
>
> (ii) In case, after recording the above statement, any regular bail application is moved before the trial court, the same shall be heard and disposed of in accordance with law."

Learned counsel for the petitioner submits that the trial court has recorded the statement of Manju as PW-1.

It is contended by learned counsel for the petitioner that the

occurrence is alleged to be of 09 & 10th of July, 2006. A report of missing person was lodged on 21.7.2006 after about 11 days of the occurrence. Thereafter, on 25.7.2006, Badri Prasad complainant filed a complaint in the Court of Additional Chief Judicial Magistrate, Hanumangarh, in which also, it has not been stated that the PW-1 Manju informed him about the occurrence as entire complaint appears to be on assumptions. There is no specific allegation against any person causing the murder of Kalu Ram. The statement of PW-1 Manju was recorded by the police under Section 161 Cr.P.C. almost after one month from the date of occurrence. PW-1 Manju claims to be eye witness of the occurrence. According to learned counsel for the petitioner had she seen the occurrence causing murder of her father, there was no reason for her to keep quiet for a month and more particularly when the report of missing person was lodged and thereafter her grand father Badri Prasad lodged a complaint before the ACJM. According to learned counsel for the petitioner, she is not the witness to the occurrence. He has invited my attention to the cross-examination of the witness PW-1. According to learned counsel for the petitioner, no satisfactory explanation has been furnished by the witness for not coming out with the case for a period of one month. Learned counsel submits that PW-1 is the married lady and has been residing with her husband elsewhere and there is absolutely no evidence except PW-1 that on the relevant date of occurrence she came over to her parents house.

On careful perusal of the statement of witnesses, complaint and

the events as stated above, without commenting on the merit of the case which may prejudice the case of either party during trial, looking to the facts and circumstances of the case and the fact that co-accused Guddi has been granted bail by this Court, having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Bal Ram S/o Khyali Ram be released on bail in FIR No. 397/2006 P.S. Hanumangarh Town, district Hanumangarh provided he executes a personal bond for a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP